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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,870	06/08/2007	Noel R.M. de Keyzer	L0012US	9678

7590 04/27/2009  
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EXAMINER
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SCOTT, ANGELA C

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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04/27/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/584,870	<b>Applicant(s)</b> DE KEYZER ET AL.	
	<b>Examiner</b> Angela C. Scott	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-31 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/29/2006 &amp; 8/24/2007</u> .                               | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

The Office notes that in the preliminary amendment submitted on June 29, 2006, Applicant has cancelled claims 1-10 and asked for prosecution to proceed on newly added claims 11-31. The Office would like to point out to Applicant that in future communications with the Office containing a claim listing, cancelled claims 1-10 should be listed as such.

***Claim Objections***

Claims 14 and 15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 14 and 15, as written, depend from claim 1, which has been cancelled. For the purpose of further examination, claims 14 and 15 have been interpreted to be dependent from claim 11.

Claim 25 is objected to because of the following informalities: In line 2, the phrase “comprising a composition according to claims 1-5 on a carrier” should be deleted. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 11-25 rejected under 35 U.S.C. 103(a) as being unpatentable over de Keyzer et al. (WO 02/057386).

de Keyzer et al. teaches an adhesive composition for pressure sensitive adhesives, packaging tapes and labels, and multipurpose hot-melt adhesives (Page 1, lines 10-15) comprising a block copolymer, a mixed aliphatic/aromatic hydrocarbon resin, and a plasticizing oil (Page 3, lines 25-27). In Tables 1 and 2, Polymer E exemplifies the block copolymer as a styrene-butadiene/isoprene(B/I)-styrene copolymer with a (B/I) ratio of 1:1, a polystyrene content of 17.6%, and a coupling efficiency of 87%. The block copolymer preferably has a weight average molecular weight ranging from 100,000 to 500,000, preferably from 150,000 to 250,000 (Page 5, lines 21-25). The block copolymer preferably contain 1,2-vinyl bonds and/or 3,4-vinyl bonds in a proportion of at most 15 weight percent, based on the weight of the conjugated diene (Page 5, lines 25-30). Table 12, example F30 shows Polymer E combined with WINGTACK ET as the hydrocarbon resin and C-956 as the plasticizing oil. WINGTACK ET is an aromatically modified aliphatic hydrocarbon resin with a softening point of 94° C, an aromaticity of 4.2% (Page 21, Table 3), and a glass transition temperature (midpoint) of 50° C (Technical Data Sheet). C-956 is a naphthenic oil which is a type of mineral oil (Page 22, Table 3). According to Example F30 in Table 12, the block copolymer is present in an amount of 44% by weight, the resin is present in an amount of 48% by weight, and the oil is present in an amount of 7% by weight.

de Keyzer et al. does not teach that the coupling efficiency of the block copolymer is between 63% and 80%. However, it is well known in the art to optimize result effective variables, such as coupling efficiencies (MPEP §2144.05). At the time of the invention, a person of ordinary skill in the art would have found it obvious to find the optimal coupling efficiency range through routine experimentation for the adhesive composition, as taught by de Keyzer et al., and would have been motivated to do so in order to change the viscosity of the block copolymer.

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Even if all of the claimed effects and physical properties are not positively stated by the reference, the reference teaches all of the claimed ingredients as described above. Therefore, the claimed effects and physical properties would implicitly be achieved by combining the disclosed ingredients. If it is applicant's position that this would not be the case: (1) evidence would need to be presented to support applicant's position; and (2) it would be the examiner's position that the application contains inadequate disclosure that there is no teaching as to how to obtain the claimed properties and effects by combining only these ingredients.

Claims 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over de Keyzer et al. (WO 02/057386).

de Keyzer et al. teaches an adhesive composition comprising a block copolymer (Page 3, lines 25-27). In Tables 1 and 2, Polymer E exemplifies the block copolymer as a styrene-butadiene/isoprene(B/I)-styrene copolymer with a (B/I) ratio of 1:1, a polystyrene content of 17.6%, and a coupling efficiency of 87%. The block copolymer preferably has a weight average molecular weight ranging from 100,000 to 500,000, preferably from 150,000 to 250,000 (Page 5, lines 21-25). The block copolymer preferably contain 1,2-vinyl bonds and/or 3,4-vinyl bonds in a proportion of at most 15 weight percent, based on the weight of the conjugated diene (Page 5, lines 25-30). According to Example F30 in Table 12, the block copolymer is present in an amount of 44% by weight.

While the specific example of Polymer E in Table 2 has a molecular weight of 195,000, which is outside of the narrow range of 180,000 to 190,000 and more specifically 180,000 to 185,000, the claimed range lies completely within the preferred range taught by de Keyzer et al. In the case where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists. *In re Wertheim*, 541 F.2d 257, 191 USPQ 90 (CCPA 1976); *In re Woodruff*, 919 F.2d 1575, 16 USPQ2d 1934 (Fed. Cir. 1990). MPEP 2144.05.

### ***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela C. Scott whose telephone number is (571) 270-3303. The examiner can normally be reached on Monday through Friday, 8:30am to 5:00pm EST.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/  
Supervisory Patent Examiner, Art Unit 1796

/A. C. S./  
Examiner, Art Unit 1796